

## Endangered Species

**Program Code** 10003713

**Program Title** Fish and Wildlife Service - Endangered Species

**Department Name** Department of the Interior

**Agency/Bureau Name** United States Fish and Wildlife Service

**Program Type(s)** Regulatory-based Program  
Competitive Grant Program

**Assessment Year** 2005

**Assessment Rating** Results Not Demonstrated

Assessment Section Scores	
Section	Score
Program Purpose & Design	40%
Strategic Planning	0%
Program Management	64%
Program Results/Accountability	6%

Program Funding Level (in millions)	<b>FY2007</b> \$283
	<b>FY2008</b> \$277
	<b>FY2009</b> \$274

### Ongoing Program Improvement Plans

Year Began	Improvement Plan	Status	Comments
2005	Develop long-term outcome and annual output performance measures.	Action taken, but not completed	Agency currently working internally to develop or revise long-term outcome and annual output performance measures.
2006	Ensure regulations and policies help improve the program's effectiveness (revising definition of adverse	Action taken, but not completed	Memo issued from the Director (dated December 9, 2004) clarifying the definition of adverse modification in section 7 consultations to all staff. Revision of regulations is currently under consideration. Draft critical habitat guidance is currently under review within the Washington Office.

	modification and issuing critical habitat guidance).		
2006	Explicitly characterize the benefits of exclusion and inclusion of particular areas in critical habitat designations to improve the transparency of the net benefit calculation.	Action taken, but not completed	Draft guidance is currently under review in the Washington office.
2006	Develop a process and timetable for regularly scheduled, non-biased, independent evaluations of the program or key components of the program that, collectively, cover the entire program.	Action taken, but not completed	Proposed schedule developed. First independent evaluation was conducted in 1st and 2nd quarter 2006 on Endangered Species Grants. This evaluation has been completed. Schedule for remaining evaluations is under review.
2005	Revise individual employee performance plans to include specific, measurable annual and long-term goals	Action taken, but not completed	The Service adopted the practice of including specific, measurable annual and long-term goals in individual employee performance plans in FY 2005. The FY 2006 employee performance plans for some regions include specific, measurable annual and long-term goals that are stepped down from the DOI Strategic Plan. The Service will be working with all regions to incorporate goals in all performance plans throughout the regions.
2006	Revise partner agreements to include specific, measurable annual and long-term goals (when program partners contribute to achievement of program goals).	Action taken, but not completed	Pending adoption of annual and long-term goals (see status of development of specific, measurable annual and long-term goals).
2006	Develop a plan for submitting significant critical habitat designations (including all supporting analyses) for review under EO 12866. Such a plan may include establishing internal deadlines for field offices and beginning to designate critical habitat	Action taken, but not completed	Draft guidance is currently under review in the Washington Office.

	consistent with statutory deadlines.		
2005	Develop and use efficiency measures for key aspects of the program.	Action taken, but not completed	Efficiency measure based on 5-year reviews has been proposed.
2006	Develop monitoring programs to measure effectiveness of program partner agreements (both funded and voluntary agreements). This includes agreements under Habitat Conservation Plans, Candidate Conservation Agreements, and others.	Action taken, but not completed	Pending adoption of annual and long-term goals (see status of development of specific, measurable annual and long-term goals).

**Program Performance Measures: None**

#### Questions/Answers (Detailed Assessment)

Section 1 - Program Purpose & Design			
Number	Question	Answer	Score
1.1	<p><b>Is the program purpose clear?</b></p> <p><i>Explanation:</i> Section 2 of The Endangered Species Act contains a very clear statement of purpose for the program: "to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved, to provide a program for the conservation of such endangered species and threatened species, and to take such steps as may be appropriate to achieve the purposes of" conservation treaties and conventions identified in the Act. The Act defines conservation as "the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this Act are no longer necessary." The Endangered Species Program has adopted this purpose, with a focus on the conservation of domestic threatened and endangered species.</p>	YES	20%

<i>Evidence:</i> ?? Endangered Species Act Section 2(b)		
1.2	<p><b>Does the program address a specific and existing problem, interest, or need?</b></p> <p><i>Explanation:</i> Decline and loss of species are widely recognized as a problem for mankind because they reduce the availability of genetic resources for future evolutionary change, damage the function of natural systems, result in a loss of economic products and hamper scientific research aimed at better understanding the natural world.</p> <p><i>Evidence:</i> ?? ESA Section 2(a) ?? Biodiversity Insights: Ten Reasons to Save the Diversity of Life, Nature Serve ?? Decision Research, 2004 Poll Results Memo</p>	YES 20%
1.3	<p><b>Is the program designed so that it is not redundant or duplicative of any other Federal, state, local or private effort?</b></p> <p><i>Explanation:</i> Elements of the program are unique; however, many aspects of the program duplicate conservation efforts undertaken by state and local governments and by private entities. Some program elements are redundant to other federal programs such as wetlands protection undertaken by the Environmental Protection Agency and the Army Corps of Engineers. Additionally, the program addresses the same problem as the NOAA Fisheries Office of Protected Resources. Both programs list and delist species, consult with federal agencies on projects affecting listed species, prepare recovery plans, and issue permits for incidental and other take. The only difference is that the FWS program implements the Act as it relates to terrestrial and freshwater species and some marine mammals (&gt;1200) while the NOAA Fisheries Office of Protected Resources program implements the Act for marine and anadromous species (61 listed). Many legislative proposals over the past 10 years have recommended combining the programs either at the program level or higher.</p> <p><i>Evidence:</i> ?? ESA Sections 7(a)(1), 7(a)(2), and 3(14) ?? 1990 Policy on Coordinating Recovery Efforts ?? MOA with NMFS on Implementation of the ESA ?? 1994 Policy on State Involvement ?? Public Programs and Conservation on Private Lands, Sandra S. Batie, prepared for National Governors Association, 2001, excerpt ?? Tragedy of the Commons, Garrett Hardin, Science Magazine, 1968, excerpt ?? Saving Biodiversity: A Status Report on State laws, Policies and Programs, Defenders of Wildlife ?? Reorganization Plan No. 4 of 1970 ?? Dept. of Commerce and Dept. of Interior MOU, Joint Responsibilities and Listing</p>	NO 0%

Procedures under the ESA, 1974 ?? An Ocean Blueprint for the 21st Century, U.S. Commission on Ocean Policy, pp. 117-118, 2004.

1.4	<p><b>Is the program design free of major flaws that would limit the program's effectiveness or efficiency?</b></p> <p><i>Explanation:</i> Program design elements that limit effectiveness and efficiency include:(1) strict deadlines that do not serve conservation, but encourage litigation; (2) regulatory measures such as "critical habitat designations" with little biological benefit, but which encourage litigation; and (3) an over-reliance on regulation as opposed to the use of cooperative tools including those that advance recovery planning and implementation. Implementing the program through two agencies also limits the effectiveness and efficiency of achieving the goals of the ESA. Various reports and legislative proposals have provided alternative approaches to improve the effectiveness of the program.</p> <p><i>Evidence:</i> * Building on Success: Improving the Endangered Species Act, Environmental Defense, April 2005 * Various legislative proposals (e.g., S1180 - Endangered Species Recovery Act of 1997, 105th Congress; S1100, 106th Congress) * America's Living Oceans, Charting a Course for Change, PEW Oceans Commission, 2005, <a href="http://www.pewtrusts.org/pdf/env_pew_oceans_final_report.pdf">www.pewtrusts.org/pdf/env_pew_oceans_final_report.pdf</a></p>	NO	0%
1.5	<p><b>Is the program design effectively targeted so that resources will address the program's purpose directly and will reach intended beneficiaries?</b></p> <p><i>Explanation:</i> The program is designed such that its resources generally support the purpose of conserving threatened and endangered species; however, program effectiveness and efficiency in meeting the program's purpose is inhibited by a number of design issues. Inflexible deadlines for designating critical habitat, for example, result in a litigation driven ESA listing program rather than one based on strategic targeting or prioritization of species based on conservation need. Additionally, Congressional requirements to spend appropriated recovery funds on projects for particular species undermines effective targeting of recovery resources. Recently, GAO highlighted that while the program has guidelines to prioritize species based on the degree of threat and potential to be recovered, funds are not generally targeted using these guidelines. The report did note, however, that the recovery funds are generally spent consistent on species that would receive the priority under the</p>	NO	0%

recovery priority guidelines. Further evidence that the program is not ensuring resources are being used effectively to meet the program's purposes is the expenditure of roughly \$350,000 per 5 year review per species reviewed in FY2004. The Service is currently developing guidance on performing 5 year reviews that will more effectively target resources for these required reviews.

*Evidence:* ?? 2005 GAO audit Fish and Wildlife Service Generally Focuses Recovery Funding on High-Priority Species, but Needs to Periodically Assess Its Funding Decisions ?? 1996 HCP Handbook ?? FY 2004 budget allocation memo ?? FY 2004 listing allocation work plan ?? RFP for Cooperative Endangered Species Conservation Fund Grants ?? April 7, 2005, FWS Memo to Regional Directors, Guidance on Prioritizing Initiation and Completion of 5-Year Reviews

**Section 1 - Program Purpose & Design**      Score      40%

## Section 2 - Strategic Planning

Number	Question	Answer	Score
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2.1	Does the program have a limited number of specific long-term performance measures that focus on outcomes and meaningfully reflect the purpose of the program?	NO	0%
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*Explanation:* The program does not have long-term outcome-oriented performance measures. New performance measures will be developed through a strategic planning process in the near future.

*Evidence:* ?? Fish and Wildlife Service Budget Justifications FY2004-FY2006 ?? Fish and Wildlife Service Budget FY2003 Annual Performance Plan/FY2001 Annual Performance Report

2.2	Does the program have ambitious targets and timeframes for its long-term measures?	NO	0%
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*Explanation:* The program needs to develop targets, timeframes, and baselines for the new long-term measures and goals when they are developed.

*Evidence:* ?? Fish and Wildlife Service Congressional Budget Justifications FY2004-FY2006 ?? Fish and Wildlife Service Budget FY2003 Annual Performance Plan/FY2001 Annual

Performance Report		
2.3	<p><b>Does the program have a limited number of specific annual performance measures that can demonstrate progress toward achieving the program's long-term goals?</b></p> <p><i>Explanation:</i> In the past, the program has used annual performance measures focusing on delisting species and making listing unnecessary. The delisting measure is no longer going to be used as an annual measure as changes in the status of species such that it can be delisted are not generally activities that can be accomplished in a short period of time such as a year. Other annual measures that are key to the program success and implementing the ESA are missing and need to be developed. One measure in particular that needs to be considered is the number of specific recovery tasks identified in Recovery Plans and other conservation actions identified in other FWS approved documents that directly contribute to species delisting that are accomplished during a year. This type of measure would help to ensure peer reviewed actions are being undertaken to ensure species are moving toward being delisted in a systematic manner. New performance measures will be developed through a strategic planning process in the near future.</p> <p><i>Evidence:</i> ?? Fish and Wildlife Service Congressional Budget Justifications FY2004-FY2006          ?? Fish and Wildlife Service Budget FY2003 Annual Performance Plan/FY2001 Annual Performance Report</p>	NO 0%
2.4	<p><b>Does the program have baselines and ambitious targets for its annual measures?</b></p> <p><i>Explanation:</i> The program needs to develop targets, timeframes, and baselines for the annual measures and goals when they are developed.</p> <p><i>Evidence:</i> ?? Fish and Wildlife Service Congressional Budget Justifications FY2004-FY2006          ?? Fish and Wildlife Service Budget FY2003 Annual Performance Plan/FY2001 Annual Performance Report</p>	NO 0%
2.5	<p><b>Do all partners (including grantees, sub-grantees, contractors, cost-sharing partners, and other government partners) commit to and work toward the annual and/or long-</b></p>	NO 0%

**term goals of the program?**

*Explanation:* The program works closely with many partners to achieve the purposes of the ESA as demonstrated by the numerous agreements and MOUs with partners. Since key program goals are still in development partners can not be expected to be able to commit and work toward them until they are developed.

*Evidence:* ?? Working Together for Healthy Lands and Thriving Communities, BLM Annual Report, 2004, excerpt ?? Threatened, Endangered & Sensitive Species Program, USDA Forest Service ?? USDA Forest Service Strategic Plan for FY 2004-2008 ?? 1999 Policy on Coordinating Recovery Efforts ?? Federal Native Plant Conservation MOU ?? American Zoological Association MOU ?? MOU with Bat Conservation International ?? Center for Plant Conservation MOU ?? American Forest Foundation MOU ?? Sec. 6 Cooperative Agreement with the States (e.g. California is one example of 86 agreements with states to administer Sec. 6 of ESA) ?? Secretarial Order on Tribal Relationships ?? Cattlemen's Beef Association MOU ?? Cave & Karst Resources MOU

2.6

**Are independent evaluations of sufficient scope and quality conducted on a regular basis or as needed to support program improvements and evaluate effectiveness and relevance to the problem, interest, or need?**

NO 0%

*Explanation:* Evaluations of the program are not conducted on a regular basis and when they have been done they have addressed specific aspects of the program, leaving gaps with other parts of the program not being adequately evaluated. Due to the scope and complexity of the Endangered Species Program a single comprehensive evaluation would likely be too difficult. A better approach is to schedule evaluations of key aspects of the program that collectively provide the necessary scope to be considered comprehensive of the program. In the past, specific aspects of the program have been well studied but do not cover the full breadth of the program and do not provide information on the effectiveness of some important aspects and approaches of the program. For example, the effectiveness of the candidate conservation program, habitat conservation plans, section 6 (cooperation with states), and efforts to provide private landowners with incentives to conserve species have not been evaluated sufficiently to meet the rigorous standard of the PART.

*Evidence:* Science and the Endangered Species Act, National Academy Press, 1995,

excerpt from Executive Summary		
2.7	<p><b>Are Budget requests explicitly tied to accomplishment of the annual and long-term performance goals, and are the resource needs presented in a complete and transparent manner in the program's budget?</b></p> <p><i>Explanation:</i> The FWS has recently adopted an activity-based costing methodology and developed a model to drive these costs to program goals. The FWS intends to move beyond only including performance information into budget documents to actually planning budget needs based on performance goals. The program is not yet, however, fully implemented as its performance-planning and budget-planning processes are not integrated such that budget allocation decisions reflect performance targets and that the effects of funding and other policy changes on results are clear. Consequently, the program budget presentation includes performance information for some aspects of the program, but not all.</p> <p><i>Evidence:</i> ?? Fish and Wildlife Service Congressional Budget Justifications FY2004-FY2006, sections on the Endangered Species program, Private Stewardship Grant program and Cooperative Endangered Species Conservation Fund ?? 2003 Expenditures Report</p>	NO 0%
2.8	<p><b>Has the program taken meaningful steps to correct its strategic planning deficiencies?</b></p> <p><i>Explanation:</i> The program is working on a draft strategic plan but it is still in its infancy. Additionally, the program has met on a number of times over the past two years to craft improved performance measures but with little success.</p> <p><i>Evidence:</i></p>	NO 0%
2.RG1	<p><b>Are all regulations issued by the program/agency necessary to meet the stated goals of the program, and do all regulations clearly indicate how the rules contribute to achievement of the goals?</b></p> <p><i>Explanation:</i> Program regulations are necessary for the accomplishment of the Act, however, the Preamble of each rule does not indicate how the rules contribute to the</p>	NO 0%

achievement of program goals. Regulations governing the interagency consultation process were adopted jointly with NOAA fisheries in 1986. In 2001 and 2004, the regulatory definition of "adversely modify," pertaining to the role of critical habitat, was invalidated by the fifth and ninth circuits respectively. No revised regulatory definition has been developed yet. Additionally, in 1999, the program issued a Notice in the Federal Register soliciting public comments on how to clarify the role of critical habitat. Numerous comments were provided and a national conference was held to address issues with critical habitat. GAO recommended guidance on how to apply critical habitat be issued on two separate occasions but the guidance has still not been issued. Additionally, in each rule designating critical habitat, FWS includes a statement that critical habitat provides little additional protection to most listed species. Guidance could help indicate how critical habitat rules contribute to the program goals.

*Evidence:* ?? 1984 final listing regulations ?? 1994 Listing Handbook ?? 1996 Policy on DPS ?? 1986 final consultation regulations ?? 2004 Pesticide Counterpart Regulations ?? 1998 No Surprises Rule ?? 2003 Healthy Forest Counterpart Regulations ?? 2004 HCP Revocation Rule ?? 1999 Safe Harbor and CCAA Final Rule ?? 2004 Safe Harbor and CCAA Revisions to Regulations

**Section 2 - Strategic Planning**      Score      0%

### Section 3 - Program Management

Number	Question	Answer	Score
3.1	<p><b>Does the agency regularly collect timely and credible performance information, including information from key program partners, and use it to manage the program and improve performance?</b></p> <p><i>Explanation:</i> The program collects performance data relating to some program activities. Data is also collected from program partners. The program collects species status information regularly from state Heritage programs and NatureServe. The program also collects considerable detailed information about program implementation through an annual data call to the Regions. The program uses this data call information to help develop budget information. For example, in response to a 2003 IG report, the program has recently amended its data call to collect information on five year reviews to establish expectations of the number of such reviews Regions will be required to accomplish with base funding. The</p>	YES	7%

	<p>program uses information such as number of consultations to gauge appropriate funding levels for the consultation program. HCP monitoring funds are allocated based on the number and size of HCPs being implemented. One issue that needs improvement, as highlighted by the IG report is more timely reporting.</p> <p><i>Evidence:</i> ?? 2004 Performance Measures Data Call ?? FY 2001-2002 Recovery Report to Congress ?? FY 2002-2003 Final Report, Enhancement of Endangered Mussels in Horselick Creek ?? 2003 Expenditures Report ?? 2004 Progress Report, Oregon Chub Investigations ?? 2003 DOI IG Report, Reporting and Recovery Planning and Implementation for Endangered Species (2003-I-0045)</p>		
3.2	<p><b>Are Federal managers and program partners (including grantees, sub-grantees, contractors, cost-sharing partners, and other government partners) held accountable for cost, schedule and performance results?</b></p> <p><i>Explanation:</i> Annual performance plans for program staff need to be revised to provide clear measurable performance standards and align to program, Service, and Department performance goals. Some partners are held to cost, schedule, and performance results while others are not.</p> <p><i>Evidence:</i> ?? Handbook on Cascading GPRA Goals, DOI ?? A Handbook for Measuring Employee Performance, OPM, PMD-013, 2001 ?? Grant Agreement, American Wild Turkey Federation ?? Progress Report, PSG Turner</p>	NO	0%
3.3	<p><b>Are funds (Federal and partners') obligated in a timely manner and spent for the intended purpose?</b></p> <p><i>Explanation:</i> The program's resource management funds are obligated, throughout the fiscal year, consistent with the implementation of the program. Only a small amount of resource management funds are unobligated and held over at the end of the fiscal year. Managers' performance plans can include timing requirements, so that funding decisions are made as early as possible.</p> <p><i>Evidence:</i> ?? FY 2004 Allocation ?? FY 2004 Internal Controls Review ?? FY 2004 Risk Assessment ?? FY 2004 Unobligated balances, resource management ?? FY 2004</p>	YES	7%

Unobligated balances, CESCOF account ?? FY 2004 Unobligated balances, PSG account		
3.4	<p><b>Does the program have procedures (e.g. competitive sourcing/cost comparisons, IT improvements, appropriate incentives) to measure and achieve efficiencies and cost effectiveness in program execution?</b></p> <p><i>Explanation:</i> The program recently developed a new draft efficiency measure (cost per 5 year review) to help control costs. Baseline data is being collected in FY 2005. Future reviews will be of conducted in a more cost efficient manner and the scope of the review will be more limited than those in FY2004. The program has also been making investments in IT to help improve efficiency: the TESS system is designed to make information easily available to users, including the general public.</p> <p><i>Evidence:</i> ?? ECOS modules</p>	NO 0%
3.5	<p><b>Does the program collaborate and coordinate effectively with related programs?</b></p> <p><i>Explanation:</i> The program collaborates and coordinates on many endangered species activities with a wide range of partners including other state agencies, non-governmental organizations, and private landowners. One recent example of such efforts resulted in the decision not to list the sage grouse. In April 2005, GAO highlighted some of the program's coordination successes and challenges. The GAO identified problems with interagency collaboration to conserve threatened and endangered species. Additional opportunities for collaboration exist on developing joint or consistent performance goals for the many ESA programs across the Federal government as well as better linkage of USDA conservation programs to recovery plans and voluntary conservation actions in Habitat Conservation Plans.</p> <p><i>Evidence:</i> ?? Endangered Species Act: Successes and Challenges in Agency Collaboration and the Use of Scientific Information in the Decision Making Process. GAO-05-732T, May 19, 2005 ?? Endangered Species: Federal Agencies Have Worked to Improve the Consultation Process, but More Management Attention Is Needed. GAO-04-93, March 19, 2004 ?? Military Training: Implementation Strategy Needed to Increase Interagency Management for Endangered Species Affecting Training Ranges. GAO-03-976, September 29, 2003 ?? Endangered Species: Despite Consultation Improvement Efforts in the Pacific</p>	YES 7%

	<p>Northwest, Concerns Persist about the Process. GAO-03-949T. June 25, 2003 ?? 1986</p> <p>Counterpart Regulations ?? 1998 Consultation Handbook ?? 2003 Healthy Forest</p> <p>Counterpart Regulations ?? 2004 Pesticide Counterpart Regulations ?? 2004 Interim</p> <p>Endangered and Threatened Species Recovery Planning Guide,</p> <p><a href="http://www.nmfs.noaa.gov/pr/readingrm/Recoverplans/rpg_%20nmfs04.pdf">www.nmfs.noaa.gov/pr/readingrm/Recoverplans/rpg_%20nmfs04.pdf</a></p>	
3.6	<p><b>Does the program use strong financial management practices?</b></p> <p><i>Explanation:</i> The program's financial management practices are free of material internal control weaknesses reported by auditors. In a risk assessment review in FY 2004, no significant weaknesses were found. In an Internal Control review in that same year, a few minor issues were identified and corrected. In addition, the program has implemented other financial management practices. The program regularly reviews its financial controls and is quick to act on any discrepancies.</p> <p><i>Evidence:</i> ?? FY 2004 Risk Assessment ?? FY 2004 Internal Controls Review ?? FY 2004 Allocation ?? Annual Report on Performance and Accountability, U.S. Department of the Interior, 2004</p>	YES 7%
3.7	<p><b>Has the program taken meaningful steps to address its management deficiencies?</b></p> <p><i>Explanation:</i> The program holds monthly calls and twice-yearly meetings of the program managers and the assistant regional directors for Ecological Services to help identify management deficiencies. For example, in response to identified deficiencies, the program incorporated structured decision-making processes into recent listing decisions and 5-year reviews and is working to streamline permit issuances. The program has also taken action to begin a more aggressive strategy to complete 5-year reviews in a timely manner.</p> <p><i>Evidence:</i> ?? Status Report on Audit Follow-up and Management Controls ?? Endangered Species Program Steps to Address Management Deficiencies</p>	YES 7%
3.CO1	<p><b>Are grants awarded based on a clear competitive process that includes a qualified assessment of merit?</b></p>	YES 7%

*Explanation:* The overwhelming majority of awards to project proposals for the various program elements of the Cooperative Endangered Species Conservation Fund (CESCF) and the Private Stewardship Grant Program (PSG) are distributed according to a competitive process at either the National, Regional, or State level. This competitive process includes independent merit review and ranking of applications, in a fair and open competition for all eligible applicants that is outlined in our annual request for proposals. The CESCF and PSG programs provide for outreach to encourage the participation of new grantees. Potential applicants are made aware of the programs through an announcement at [www.Grants.gov](http://www.Grants.gov), a Catalog of Federal Domestic Assistance listing, a letter of notification sent through the International Association of Fish and Wildlife Agencies (for CESCF grants), information posted on the U.S. Fish and Wildlife Service endangered species grants webpage, and a national press release. Both programs continue to receive and award grants to new program participants.

*Evidence:* ?? Federal Aid Information Management System web page ?? CESCF grants web page from Grants.gov ?? CESCF & PSG grants pages from Catalog of Federal Assistance ?? RFPs for CESCF and PSG grants ?? Annual Performance Report for States Endangered Species grants, e.g. Kentucky

3.CO2

**Does the program have oversight practices that provide sufficient knowledge of grantee activities?**

YES 7%

*Explanation:* The Endangered Species Grants program has reporting systems in place to document grantees' use of funds in eligible activity categories. Annual performance and fiscal reports for the CESCF program are tracked in the Federal Aid Information Management System (FAIMS). For CESCF grants, follow-up contact is made at least annually to determine progress and in general 10% of States are visited on-site annually. For PSG grants, the Service utilizes Regional reporting systems including the Habitat Information Tracking System (HabITS) to document grantees' use of funds in eligible activity categories. Through the PSG a high level of technical assistance is provided to grantees, including site visits to a substantial number of grantees on a regular basis. Audits of grantee performance and tracking of actual expenditures to verify that funds are used for their designated purposes are accomplished through the review of A133 audit reports and the data in FAIMS (CESCF).

	<p><i>Evidence:</i> ?? Administrative Requirements For Endangered Species Grants Program Funding Awards ?? FAIMS interface ?? State of California Cooperative Agreement ?? Habitat Information Tracking System (HabITS) Report on National Wildlife Turkey Federation PSG ?? Conservation Partnerships Program Annual Report Fiscal Year 2004 ?? Administrative Requirements for PSG Funding Awards</p>	
3.CO3	<p><b>Does the program collect grantee performance data on an annual basis and make it available to the public in a transparent and meaningful manner?</b></p> <p><i>Explanation:</i> The Endangered Species Grants program collects, compiles and disseminates grantee performance information in an accessible manner. Grantees are required to submit performance and fiscal reports on an annual basis. Information about program accomplishments is provided to the public through a variety of means including a query-able public internet interface to the FAIMS, which provides grant-specific accomplishment information as well as aggregated reports for the CESCO programs. In addition, some field stations develop their own performance reports, available on the web.</p> <p><i>Evidence:</i> ?? RFP for PSG program ?? FAIMS Interface ?? CPP Report Executive Summary</p>	YES 7%
3.RG1	<p><b>Did the program seek and take into account the views of all affected parties (e.g., consumers; large and small businesses; State, local and tribal governments; beneficiaries; and the general public) when developing significant regulations?</b></p> <p><i>Explanation:</i> The FWS solicits and incorporates the views of affected parties when finalizing its existing regulations, as can be seen in the responses to comments in each regulation and in the changes in the final regulations from the proposals. The program carries out this practice, including listing decisions and critical habitat designations, even though these must often be completed under strict legal deadlines. The Service does not release the draft economic analyses at the same time as its proposed critical habitat rules, sometimes not releasing them until a few months or weeks before the due date of the final rules. This hampers the public's ability to understand the effect of the rulemaking and submit relevant comments. The Service provides only 30 days, in violation of its own regulations, for the full rule package.</p> <p><i>Evidence:</i> ?? Maui Plants Final Critical Habitat Rule ?? 1984 final listing regulations ?? 1986</p>	YES 7%

	final consultation regulations ?? 1999 CCAA Policy ?? 1999 Safe Harbor and CCAA Final Rule		
3.RG2	<p><b>Did the program prepare adequate regulatory impact analyses if required by Executive Order 12866, regulatory flexibility analyses if required by the Regulatory Flexibility Act and SBREFA, and cost-benefit analyses if required under the Unfunded Mandates Reform Act; and did those analyses comply with OMB guidelines?</b></p> <p><i>Explanation:</i> The Service does not submit critical habitat rules under EO 12866 because of legal deadlines that prohibit timely review under the EO. The Service also does not follow the requirements in EO 12866 and Circular A-4 with respect to assessing the benefits of its rules. The Service routinely certifies that its rules will not have significant effect on a substantial number of small entities, even where the Small Business Administration's Office of Advocacy provides comments to the contrary. Additionally, the Service does not publish final economic analyses showing the effects of its final rules. It does sometimes calculate the effects of the final areas designated but this information is not readily available to the public.</p> <p><i>Evidence:</i> ?? Record of Compliance for 11 Mobile River Mussels Final Critical Habitat Final Rule ?? 11 Mobile River Mussels Final Critical Habitat Rule ?? Record of Compliance for Lane Mountain Milk-vetch Critical Habitat Final Rule ?? Lane Mountain Milk-vetch Final Critical Habitat Rule ?? Correspondence from SBA re: Certification of Proposed Critical Habitat Rule Under the RFA ?? California Tiger Salamander Economic Analysis ?? Arroyo Toad Economic Analysis ?? Munz Onion Notice of Availability ?? 2003 GAO Audit??Fish and Wildlife Service Uses Best Available Science to Make Listing Decisions, but Additional Guidance Needed for Critical Habitat Designations</p>	NO	0%
3.RG3	<p><b>Does the program systematically review its current regulations to ensure consistency among all regulations in accomplishing program goals?</b></p> <p><i>Explanation:</i> The program does not review its regulations periodically to ensure they are consistent with program policies, to minimize regulatory burden, to ensure consistency and necessity. In some instances, regulations or parts of a regulation have been invalidated by courts but the regulations have not been changed to address the invalidation, e.g., definition of adverse modification of critical habitat. Additionally, there seem to be several inconsistencies between NOAA and FWS' implementation of regulations: NOAA takes a</p>	NO	0%

	<p>different approach with respect to permitting take of threatened species and designates critical habitat using a different 4(b)(2) methodology.</p> <p><i>Evidence:</i> ?? 2004 Safe Harbor &amp; CCAA Final Regulations ?? 2004 HCP Permit Revocation Rule ?? 2000 HCP handbook??5-point Addendum ?? Sierra Club v. FWS, 245 F.3d 434 (5th Cir. 2001) ?? Gifford Pinchot v. FWS, 378 F.3d 1059 (9th Cir. 2004)</p>		
3.RG4	<p><b>Are the regulations designed to achieve program goals, to the extent practicable, by maximizing the net benefits of its regulatory activity?</b></p> <p><i>Explanation:</i> The ESA and the program's implementing regulations are not designed to maximize the net benefits of its regulatory activity. Of the three major regulatory provisions of the Act, listing and consultation do not allow consideration of costs and benefits. The Statute does require the Secretary to take into consideration economic and other impacts of specifying areas as critical habitat and weighing the benefits of designating specific areas as critical habitat when the Secretary evaluates whether to exclude those areas from the designation. As a result, the costs of conservation are considered in the very narrow context of critical habitat designation and not in the more far-reaching listing and consultation processes. Critical habitat designations have not characterized the benefits of inclusion and the benefits of exclusion explicitly enough to allow the net benefit calculation to be transparent, thus potentially failing to maximize the societal benefits of the regulatory activity.</p> <p><i>Evidence:</i> ?? 11 Mobile River Mussels Final Critical Habitat Rule ?? Lane Mountain Milk-vetch Final Critical Habitat Rule</p>	NO	0%
Section 3 - Program Management		Score	64%
Section 4 - Program Results/Accountability			
Number	Question	Answer	Score
4.1	<p><b>Has the program demonstrated adequate progress in achieving its long-term performance goals?</b></p> <p><i>Explanation:</i> The program does not have long-term outcome-oriented performance measures. New performance measures will be developed through a strategic planning</p>	NO	0%

	<p>process in the near future. Long-term performance measures focusing on delisting species, making listing unnecessary, and how species are doing compared to when they were listed are examples of measures that may be developed during the strategic planning process. Absent these measures, baselines, targets, and results data, it is difficult to evaluate the performance of the program.</p> <p><i>Evidence:</i></p>		
4.2	<p><b>Does the program (including program partners) achieve its annual performance goals?</b></p> <p><i>Explanation:</i> While the program has some annual performance measures focusing on delisting species and making listing unnecessary, additional annual measures that demonstrate how species are doing compared to when they were listed and other measures need to be developed. Because these measures will reflect the program's performance for most of the species listed under the Act (which triggers most of the protections under the Act), it is difficult to evaluate the performance of the program without these measures. New measures will be developed through a strategic planning process in the near future.</p> <p><i>Evidence:</i></p>	NO	0%
4.3	<p><b>Does the program demonstrate improved efficiencies or cost effectiveness in achieving program goals each year?</b></p> <p><i>Explanation:</i> The program is in the process of developing a new efficiency measure with baselines and targets. Generally, the program has become more efficient in its operations based on a growing workload.</p> <p><i>Evidence:</i></p>	NO	0%
4.4	<p><b>Does the performance of this program compare favorably to other programs, including government, private, etc., with similar purpose and goals?</b></p>	NO	0%

*Explanation:* The only program with a similar purpose and goals and which covers the full spectrum of activities that the FWS program covers is NOAA's endangered species program. No evaluation comparing the two agencies has been done and with NOAA managing 61 listed species and DOI managing over 1200 species such a comparison would be challenging. Other Federal agencies also have endangered species programs that could be compared to components of the FWS endangered species program. It might be more appropriate to look at state programs, although none have the comprehensive suite of responsibilities and authorities as the FWS program.

*Evidence:*

4.5

**Do independent evaluations of sufficient scope and quality indicate that the program is effective and achieving results?**

SMALL  
EXTENT

6%

*Explanation:* There is no comprehensive evaluation of the program's effectiveness and results. There are numerous reports that indicate the program is effective or is not effective but these reports would not always meet the quality or independence requirements of the PART. Since 1995, GAO has issued more than 20 reports related to different aspects of the ESA. In some instances the program has fared well (e.g., FWS is using best science available) while in other instances the program has not done as well (concerns about section 7 consultation process persist). While these reports have looked at specific aspects of the program, they do not cover the full breadth of the program and do not provide information on the effectiveness of some key program components. For example, the effectiveness of the candidate conservation program, habitat conservation plans, section 6 (cooperation with states), and efforts to provide private landowners with incentives to conserve species have not been evaluated sufficiently to meet the rigorous standard of the PART.

*Evidence:* ?? Endangered Species Act: Successes and Challenges in Agency Collaboration and the Use of Scientific Information in the Decision Making Process. GAO-05-732T, May 19, 2005 ?? Endangered Species: Federal Agencies Have Worked to Improve the Consultation Process, but More Management Attention Is Needed. GAO-04-93, March 19, 2004 ?? Military Training: Implementation Strategy Needed to Increase Interagency Management for Endangered Species Affecting Training Ranges. GAO-03-976, September 29, 2003 ?? Endangered Species: Despite Consultation Improvement

Efforts in the Pacific Northwest, Concerns Persist about the Process. GAO-03-949T. June 25, 2003

4.RG1	<b>Were programmatic goals (and benefits) achieved at the least incremental societal cost and did the program maximize net benefits?</b>	NO	0%
<p><i>Explanation:</i> It is difficult to determine whether the net benefits of the program are maximized. With the exception of critical habitat designations, neither the Act nor its implementing regulations require the identification and comparison of benefits. In the context of critical habitat, the practice is to assume conservation benefits unilaterally. A full and explicit enumeration of benefits of inclusion and exclusion is required to assure that maximum benefits are achieved at minimum cost.</p> <p><i>Evidence:</i></p>			
<b>Section 4 - Program Results/Accountability</b>		<b>Score</b>	<b>6%</b>